

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 23322 of 2007

Dated: 05.11.2007

Between:

Sri Shantilal.

... Petitioner

AND

The State of A.P., rep., by the
Collector, Hyderabad District,
At Collectorate Complex,
Nampally Station Raod, Hyderabad
& another.

... Respondents

Counsel for the petitioners : Sri Praveen Vyapari

Counsel for the respondents : Assistant Government Pleader for
Land Acquisition.

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ORDER:-

This writ petition is filed for a writ of mandamus to declare the award proceedings bearing No.A/1571/2006 dated 25.04.2007, as illegal. The petitioner also sought for a direction to the respondents to correct the notification and pay compensation by drawing the cheque in his name.

The petitioner claims to be the owner of shop premises bearing municipal No.22-6-4 situated at Kali Kaman, Hyderabad. He seeks to trace his title through a registered sale deed dated 30.01.1982 allegedly executed by Sri Ramkishan Verma. The Municipal Corporation of Hyderabad (for short, 'the Corporation') as it then was initiated process of acquiring the lands for the purpose of road widening from Gulzar House to Royal Function Hall (Alija Kotla Road). Certain correspondence was exchanged between the petitioner and the Corporation, which turned on the dispute relating to the ownership of the building. In Form-VII Notice issued under Sections 9(3) and 10 of the Land Acquisition Act, 1894 (for short, 'the Act'), the name of one S. Purandas was shown as the owner of the house bearing door No.22-6-4. Similarly, his name was also mentioned in Form-X issued on 25.04.2007. The petitioner made correspondence in this regard, wherein he objected to referring the name of Sri S.Purandas as the owner of the property under acquisition and he sought for correction of the names. As the respondents have not corrected

the names mentioned in the notices, the petitioner filed the present writ petition for the aforementioned relief.

A perusal of the material filed by the petitioner shows that the declaration made under Section 6 of the Act and published by the Collector, Hyderabad District shows the name of Sri S.Purandas as the owner of the property in dispute. Similarly, notices issued under Sections 9(3) and 10 of the Act also show the name of the said person as the owner of the said premises. In view of the dispute raised by the petitioner regarding the ownership and entitlement to receive compensation, the Special Deputy Collector, Land Acquisition, Municipal Corporation of Hyderabad issued notice dated 25.04.2007 under Section 12 (2) of the Act, wherein it is mentioned that an award for Rs.1,52,151=41ps was passed and after deducting the income tax amount of Rs.12,932=21ps, the compensation payable towards the acquisition of the property came to Rs.1,39,219/- and that the dispute is referred to the civil Court under Section 30 of the Act. It is also mentioned that the amount of compensation will be deposited in the Court under Section 31 of the Act.

The above facts, ex facie, demonstrate that there is a dispute regarding the ownership and the person, who is entitled to receive the compensation between the petitioner and Sri S.Purandas. Under Section 30 of the Act, after the settlement of amount of compensation under Section 11 of the Act, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court. Under Section 31, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award and shall pay it to them unless prevented by one or more of the contingencies mentioned in sub-section (2) of Section 31 of the Act. One of the

contingencies mentioned therein is that if there is dispute of title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of compensation in the Court to which a reference under Section 18 would be submitted.

In the light of the facts mentioned above, evidently, the Land Acquisition Officer was satisfied that there was a bonafide dispute as to the person, who is entitled to receive compensation and he has exercised his power under Sections 30 and 31 of the Act. I do not therefore see any error in the proceedings impugned in this writ petition.

Learned counsel for the petitioner, however, submitted that so far, the amount has not been deposited and that a cheque was prepared in the name of S. Purandas. Except making this assertion, the petitioner has not substantiated the same by filing any material in support thereof. At any rate, once the Land Acquisition Officer has exercised his power under Section 30 for referring the dispute to the civil Court, he has no option, other than, following the contingency contained under Section 31 (2) as discussed above.

In the result, the writ petition is dismissed. Respondent No.2 shall forthwith take appropriate steps to deposit the compensation amount in the civil Court under the provisions of Section 31(2) of the Act. The petitioner is at liberty to pursue the proceedings before the civil Court.

As a sequel to dismissal of the writ petition, WPMP.No.30387 of 2007 filed by the petitioner is also dismissed.

C.V. NAGARJUNA REDDY, J

Date: 05.11.2007
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